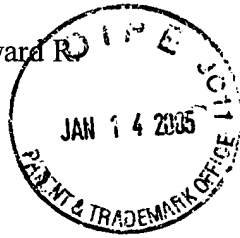


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: NEWTON, Edward R.

SERIAL NO.: 10/672,355

FILED: September 29, 2003



ART UNIT: 3652

EXAMINER: Chin, P.T.

TITLE: DEVICE FOR HOLDING MULTIPLE BEVERAGE CONTAINERS

AMENDMENT "A"

Director of the U.S. Patent
and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action of October 20, 2004, having a response being due by January 20, 2005, please consider the following remarks:

REMARKS

Upon entry of the present amendments, previous Claims 1 - 20 have been canceled and new Claims 21 - 25 substituted therefor. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of distinguishing the present invention from the prior art.

In the Office Action, it was indicated that the Claims 1 - 7, 14, 15 and 18 were rejected as anticipated by the Lipkowitz patent. Claims 1 - 7, 14, 15 and 18 were rejected as being anticipated by the Wissman patent. Claims 1 - 6, 14, 15 and 18 were also rejected as anticipated by the Rake patent. Claims 8 - 13, 16, 17, 19 and 20 were rejected as being obvious over the Wissman patent in

view of the Sporttolari patent. Claims 7 - 13, 16, 17, 19 and 20 were rejected as being obvious over the Rake patent in view of the Sporttolari patent.

As an overview to the present reply, Applicant has extensively amended the original claim language in the form of new Claims 21 - 25. New independent Claims 21 and 25 include certain limitations which serve to properly distinguish the present invention from the prior art.

In particular, independent Claim 21 indicates that the panel has a “continuously curved back edge extending between ends of said curved edge”. The claim also recites that the “plurality of support elements” are of a “hollow tapered configuration with a diameter at the bottom surface of the panel being greater than a diameter of the support element at a bottom of the support element”. Each of the support elements is open at the panel and closed at the bottom thereof. It is indicated that the bottoms of the support elements are co-planar and in plane parallel relationship to the panel. Independent Claim 25 includes similar limitations.

Applicant respectfully contends that these features distinguish the present invention from the prior art and emphasize advantages of the present invention which are neither shown nor suggested by the prior art patents. As indicated on page 8, paragraph [0028], of the original specification:

Each of the support members 28 and 30 is also tapered downwardly from the bottom surface 40 of the panel 12 to the respective bottoms 44 and 46 thereof. This also allows the support members 28 and 30 to be nested within an underlying respective support member so that the device 10 can be suitably stacked one upon the other.

On page 8, paragraph [0030], of the original specification, it is stated that:

It can be seen how the support members 26, 28 and 30 will nest within the respective support members of the respective underlying panels 50, 52 and 54. As a result, the present invention

allows a large number of devices 10 to be easily stored, transported, and displayed.

The support members will maintain the panel in a self-standing orientation. This is because the bottoms of the support members are co-planar with each other and extend in parallel planar relationship to the panel. This feature of the present invention was described on page 9, paragraph [0032], as follows:

On the other hand, if the stem 64 of beverage container 62 is very short, then the support members 26, 28 and 30 will still maintain the beverage container 62 in an upright configuration with the bottom of the beverage container 62 spaced from the underlying support surface. It is only necessary to slightly lift and slide the beverage container 62 from the panel 12 so as to remove the beverage container. As a result, the present invention keeps the beverage container in an ideal position for delivery and use. The emptied beverage container can be returned to the slot 20 or any of the other slots, so that the device 10 can be returned to the bar for refilling or for washing.

Additionally, in the event that the beverage containers are relatively long, then the self-standing ability of the device of the present invention will cause the beverage containers to be placed in a desired position on a table with added support from the tray. This feature was recited in paragraph [0031] on page 9 as follows:

... As a result, if the stem 64 would extend too far downwardly from the bottom surface 40 of panel 12, the panel 12 will move downwardly along the stem 64 so that the bottom 42 of the support member 26 will reside in coplanar relationship with the base 66 of the container 62. When the panel 12 is lifted, the top surface 38 of panel 12 will come into contact with the underside 68 of the bowl 70 of beverage container 62. As a result, the beverage container 62 can be easily lifted by the device 10. When the device 10 is transported to a table and placed on the top surface of the table, the bottoms 44 and 46 of support members 28 and 30, respectively, will lie in surface-to-surface contact with the supporting surface. Similarly, the base 66 of beverage container 62 will reside in such surface-to-surface contact

with the supporting surface. As a result, beverage container 62, along with any other beverage containers that are received within the respective slots 16, 18, 20, 22 and 24, can also be placed in a desired position on the table.

As such, through the use of the support members, the present invention achieves advantages that are neither shown nor suggested by the prior art combination.

It should be noted that independent Claim 21 incorporates the limitations of previous Claims 1 - 4, 6 - 8, 11, 12 and 14. New independent Claim 25 incorporates the limitations of dependent Claims 16 and 17, along with limitations relating to the co-planar relationship of the ends of the support members.

With respect to prior art rejections of these claims, Applicant notes that the prior art Wissman patent discloses a serving tray which has slots formed on peripheral edges thereof. Support members 10 extend downwardly from the underside of the panel. The support members are in the form of solid legs having a widened surface at the bottom thereof. The support members are not hollow and do not open at the top surface of the panel. As a result, the Wissman patent lacks the ability to stack the various containers one on top of the other.

The prior art Sporttolari patent shows a serving tray for ice cream cones. In particular, the device includes tapered openings which have one surface opening well above the top surface of the panel and a narrow end positioned below the panel. However, it is necessary to utilize legs 26 so as to support the panel above an underlying surface. Each of the tapered members 24 is configured to receive an ice cream cone therein and not configured to support the tray in a parallel relationship upon an underlying surface. Fundamentally, relative to the independent claims, each of the hollow tapered members 24 in the Sporttolari patent does not have a top surface opening at the panel.

Additionally, each of the tapered members is closed at the bottom surface. The combination of the Wissman and Sporttolari patents would still not show the structure of the present invention whereby the support elements support the tray in a desired location upon an underlying surface. The prior art combination would not show hollow tubular members having an open end at the panel and a closed end at the opposite end. As such, the combination of the Wissman and Sporttolari patents would not show the present invention as now claimed.

The Rake patent discloses a cone holder. Fundamentally, the Rake patent is simply a panel with holes formed therein. The “support elements” are only shown as being ice cream cones as received within the holes. As disclosed, the cones do not have a top surface which opens at the top surface of the panel. Additionally, the Rake patent does not show the C-shaped slots opening around the periphery of the panel. The structure of the Rake patent is entirely different than that of the present invention. The combination of the Rake and Sporttolari patents would still lack the “stackability” of the present invention and would lack the structure of the support elements as having a top end opening at the panel and a bottom closed end. As such, the combination of the Rake and Sporttolari patents would not show the structure of the present invention, the function of the present invention nor the results achieved by the present invention.

Dependent Claim 22 corresponds to the limitations of original dependent Claim 5. Dependent Claims 23 - 24 correspond, respectively, to the limitations of original dependent Claims 9 - 10.

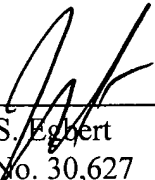
Based upon the foregoing analysis, Applicant contends that independent Claims 21 and 25 are now in proper condition for allowance. Additionally, those claims which are dependent upon these independent claims should also be in condition for allowance. Reconsideration of the

rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

Respectfully submitted,

Date

1-15-05



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